

REMARKS/ARGUMENTS

Claims 1-67 are pending in the application. Claims 1-67 stand rejected over Ordish et al. (U.S. Patent No. 5,727,165) in view of Gutterman et al. (U.S. Patent No. 5,297,031) and further in view of SelectNet/SuperSOES under 35 U.S.C. 103(a).

Claim Amendments

The amendment of independent method claims 1 and 66 and corresponding independent system claims 38 and 67, respectively, proposes that the request for the user for the proposed financial transaction is received via a terminal by each of several independently maintained and segregated trading systems coupled over a network to the terminal and that the rate quote is generated via one or more of the trading systems. The amendment of claims 1 and 38 proposes further that an executable rate quote is generated if certain conditions are met for allowing the proposed financial transaction on the basis of the executable rate quote, which include a proposed transaction volume that does not exceed an available volume and a proposed transaction amount that does not exceed a predefined limit. The amendment of claims 1 and 38 also proposes that a category trader's manual rate quote is generated if certain other conditions are met for rejecting the proposed financial transaction on the basis of the executable rate quote, which include a proposed transaction volume that does exceed the available volume and a proposed transaction amount that does exceed the predefined limit, and in addition a predetermined setting of a request for quote parameter. Further, the amendment of claims 1 and 66 and corresponding independent system claims 38 and 67, respectively, proposes that the user is prompted for a selection of the generated rate quote via the trading system or systems that generated the rate quote and held for the user for a predetermined period of time, and upon receiving a request for execution of the proposed transaction for the user by one of the trading systems, the trading system executes the proposed transaction in accordance with the rate quote if the request is received within the predetermined period of time.

Claims 2, 8-10, 14, 15, 17, 29, 34, and 37, limitations of which are included in amended claim 1, and claims 42-45, 48-50, 52, 55-59, 61-63, and 56, limitations of which are included in amended claim 38, are canceled. Claims 3-7, 11-13, 16, 18-23, 25, 30, 33, 35, 36, 39-41, 46, 47, 51, 53, 54, 60, and 64 are amended to address editorial issues resulting from the amendment of claims 1 and 38.

Support for the foregoing amendment is found throughout the specification and in the claims as detailed above. Accordingly, no new matter has been added.

Claim Rejections - 35 U.S.C. §103

Claims 1-67 stand rejected as obvious over Ordish et al. (U.S. Patent No. 5,727,165) in view of Gutterman et al. (U.S. Patent No. 5,297,031) and further in view of SelectNet/SuperSOES under 35 U.S.C. 103(a). As noted, claims 2, 8-10, 14, 15, 17, 29, 34, 37, 42-45, 48-50, 52, 55-59, 61-63, and 56 are canceled, and the rejection of claims 1, 3-7, 11-13, 16, 18-23, 25, 30, 33, 35, 36, 38-41, 46, 47, 51, 53, 54, 60, 64, 66, and 67 is respectfully traversed and reconsideration is requested. The references asserted do not teach or suggest the subject invention.

The Examiner considers that Ordish et al., Gutterman et al., and SelectNet/SuperSOES teach all of the claimed elements of all of claims 1-67. It is true that Ordish et al. discusses a timer, but instead of allowing a user to execute a transaction at a given rate quote within a predetermined time, the timer of Ordish et al. is set when a host computer forwards a match to a seller and generates an alarm if an acknowledgement of the match is not timely received to avoid a risk of loss due to broken trades caused by failure in the system that results in one party thinking a trade has occurred while the other party is unaware of any trade. (See Col. 1, line 35-Col. 3, line 42). Further, instead of a plurality of independently maintained and segregated trading systems, Ordish et al. discloses a single matching system in which the occurrence of automatically confirmed trades is dependent on receipt of match acknowledgement messages by a host computer from all counterparties to a matching trade. (See Abstract). In addition, instead of receiving a request for a rate quote of

any kind, according to Ordish et al., multiple offers to sell a trading instrument at various prices are sent to the host computer and anonymously broadcast to all keystations, which can make counteroffers to buy a portion of the trading instrument according to a price selected from the various offers. (See Col 5, line 59-Col 6, line 7).

Gutterman et al. does not cure the deficiencies of Ordish et al. but instead provides a broker workstation that allows a broker to communicate information on the status of orders, so they can be tracked from entry into an electronic order entry system to the time the orders are returned. (See Col 6, lines 33-68). Gutterman et al. does not teach a plurality of independently maintained and segregated trading systems. Rather, Gutterman et al. proposes broker workstations that receive communications from an electronic order entry and price reporting system provided by an exchange (See Col 7, lines 37-52) that time-stamp received information, but only for tracking purposes. (See Col 8, lines 33-37). It is true that Gutterman et al. discusses the various types of transaction orders mentioned by the Examiner, including market orders (See Col 3, lines 11-30), contingency orders, price limit orders, fill or kill orders, buy stop orders, buy limit order (See Col 3, lines 31-61), sell stop orders, railing stop orders, stop limit orders, market-if-touched orders, and board orders (See Col 3, line 61-Col 4, line 20), alternative orders (See Col 4, lines 21-43), scale orders, contingent orders, and spreads (See Col 4, lines 44-65) mentioned by the Examiner, but these various types of transaction orders mentioned by the Examiner have nothing to do with applicants' claimed invention.

Neither does SelectNet/SuperSOES, which is the automatic execution system for Nasdaq, cure the deficiencies of Ordish et al. and/or Gutterman et al.. SelectNet/SuperSOES likewise does not teach a plurality of independently maintained and segregated trading systems. It is true that SelectNet/SuperSOES discusses certain limits on the sizes of orders that may be entered, in that the largest size order that can be entered into SuperSoes is 999,999 shares. However, this is a system limitation that has nothing to do with an available volume or a transaction limit, since the SuperSoes system freely allows larger orders to be split up and entered in separate multiples. (See p.

1, lines 5-7). Further, the election by a market maker of the reserved size feature of SuperSoes is optional, and when the number of shares is depleted to zero by orders, the market maker must use an automated refresh feature unless it immediately updates its reserved size. (See p. 1, lines 20-22).

Ordish et al. and Gutterman et al. both focus on timing aspects, such as timing out the acknowledgement in Ordish et al. and time stamping order entries by Gutterman et al., and SelectNet/SuperSOES discusses the optional reserved size feature of Nasdaq's execution system. There is no teaching or suggestion in Ordish et al., Gutterman et al., and/or SelectNet/SuperSOES of receiving a request for the user for the proposed financial transaction via a terminal by each of several independently maintained and segregated trading systems coupled over a network to a terminal in response to which a rate quote is generated via one or more of the trading systems, as proposed in claims 1, 38, 66, and 67.

Nor is there any teaching or suggestion in Ordish et al., Gutterman et al., and/or SelectNet/SuperSOES of generating an executable rate quote if certain conditions are met for allowing the proposed financial transaction on the basis of the executable rate quote, which conditions include a proposed transaction volume that does not exceed an available volume and a proposed transaction amount that does not exceed a predefined limit, as proposed in claims 1, 38, 66, and 67.

Further, there is no teaching or suggestion in Ordish et al., Gutterman et al., and/or SelectNet/SuperSOES of generating a category trader's manual rate quote if certain other conditions are met for rejecting the proposed financial transaction on the basis of the executable rate quote, which conditions include a proposed transaction volume that does exceed the available volume and a proposed transaction amount that does exceed the predefined limit, and in addition a predetermined setting of a request for quote parameter, as proposed in claims 1, 38, 66, and 67.

In addition, there is no teaching or suggestion in Ordish et al., Gutterman et al., and/or SelectNet/SuperSOES of prompting the user for a selection of the generated rate quote via the trading system or systems that generated the rate quote, and held for the user for a predetermined period of time, and upon receiving a request

for execution of the proposed transaction for the user by one of the trading systems, the trading system executes the proposed transaction in accordance with the rate quote if the request is received within the predetermined period of time, as proposed in claims 1, 38, 66, and 67.

The above-noted aspects of Applicant's claimed invention are not disclosed or suggested by Ordish et al., Gutterman et al., and/or SelectNet/SuperSOES either separately or in any combination with one another. Rather, the rejection attempts a hindsight reconstruction of the claimed invention using the claimed invention as a template and selecting pieces from the references to fill in the gaps.

Because the cited references do not teach the limitations of claims 1, 38, 66, or 67 the Examiner has failed to establish the required *prima facie* case of unpatentability. See In re Royka, 490 F.2d 981, 985 (C.C.P.A., 1974) (holding that a *prima facie* case of obviousness requires the references to teach all of the limitations of the rejected claim); See also MPEP §2143.03.

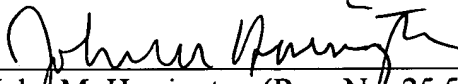
Because the Examiner has failed to establish the required *prima facie* case of unpatentability for independent claims 1 and 38, the Examiner similarly has failed to establish a *prima facie* case of unpatentability for claims 11-13, 16, 18-28, 30-33, 35, and 36 that depend on claim 1 and claims 41, 46, 47, 51, 53, 54, 60, and 64 that depend on claim 38 and which recite further specific elements that have no reasonable correspondence with the references.

Conclusion

In view of the foregoing amendment and these remarks, each of the claims remaining in the application is in condition for immediate allowance. Accordingly, the examiner is requested to reconsider and withdraw the rejection and to pass the application to issue. The examiner is respectfully invited to telephone the undersigned at (336) 607-7318 to discuss any questions relating to the application.

Respectfully submitted,

Date: 8/4/03


John M. Harrington (Reg. No. 25,592)
for George T. Marcou (Reg. No. 33,014)

Kilpatrick Stockton LLP
607 14th Street, NW, Suite 900
Washington, DC 20005
(202) 508-5800